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February 17, 2015

VIA ECF

Hon. George B. Daniels
United States District Judge
United States District Court for the Southern District of New York
500 Pearl Street
New York, NY 10007-1312

Re: *Sokolow v. Palestine Liberation Organization et al.*
04-CV-397(GBD)(RLE)

Dear Judge Daniels:

I write to request that the Court modify certain questions on the proposed verdict form to make clear that in order for the PA or PLO to be found liable for material support on a direct liability theory, the jury must find that such material support was provided by a senior official of the relevant defendant. The verdict form as currently drafted would allow the jury to find the PLO liable if it determines that the "PLO knowingly provided material support or resources that were used in preparation for or in carrying out this attack." However, the verdict form does not inform the jury of *who* could create such liability for the PLO. The verdict form would similarly allow the jury to find the PA liable if it determines that the "PA knowingly provided material support or resources that were used in preparation for or in carrying out this attack," but provides no guidance on who could create such liability for the PA.

Plaintiffs opposed our Motion for Summary Judgment on material support by arguing that the PA or PLO could be found liable under a direct liability theory because there was assertedly admissible evidence that Defendants' "senior" "officials," "leaders," or "figures" provided weapons or funds or harbored terrorists, DE 545 at 23-26, and the Court denied summary judgment on that basis, DE 646 at 17-20. Today the Court indicated that the jury could find the PA or PLO liable for direct support if a "person who is of high responsibility" such as a "managerial person," "high-level individual," or "high level responsible PA person." Tr. at 3503-3505. Accordingly, the jury must now be told that the PLO and PA can only be found liable on a "direct" liability theory if the jury finds that the Plaintiffs have proven by a preponderance of the evidence that a "senior official" of the PA or PLO knowingly provided material support. This modification should be made for each question on the verdict form that is not based on respondeat superior liability. Proposed modifications are shown in black line on the attached.



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The jury should also be instructed on who is a "senior official" of each Defendant so they can determine whether the alleged conduct of an individual is sufficient to create liability. Accordingly, Defendants request that the jury be instructed as follows: "In order to find the PA or PLO liable for provision of material support, you must find that such support was knowingly provided by a senior official of one of those organizations. A senior official of the PA would be the President of the PA or members of the PA's Cabinet. A senior official of the PLO would be the Chairman of the Executive Committee of the PLO or members of the PLO Executive Committee."

Sincerely,

A handwritten signature in blue ink that reads "Mark J. Rochon" followed by a stylized flourish.

Mark J. Rochon

cc: All ECF Counsel